



DONALD L. WOLFE, Director

# COUNTY OF LOS ANGELES

## DEPARTMENT OF PUBLIC WORKS

*"To Enrich Lives Through Effective and Caring Service"*

900 SOUTH FREMONT AVENUE  
ALHAMBRA, CALIFORNIA 91803-1331  
Telephone: (626) 458-5100  
[www.ladpw.org](http://www.ladpw.org)

ADDRESS ALL CORRESPONDENCE TO:  
P.O. BOX 1460  
ALHAMBRA, CALIFORNIA 91802-1460

February 9, 2006

IN REPLY PLEASE **PD-2**  
REFER TO FILE:

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, CA 90012

Dear Supervisors:

**AZUSA AVENUE FROM AMAR ROAD TO TEMPLE AVENUE  
CITY OF WEST COVINA—COUNTY COOPERATIVE AGREEMENT  
SUPERVISORIAL DISTRICTS 1 AND 5  
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD:**

1. Find that the project to resurface and reconstruct the deteriorated pavement and install median landscaping on Azusa Avenue from Amar Road to Temple Avenue, which is jurisdictionally shared between the City of West Covina and the County, is exempt from the California Environmental Quality Act (CEQA).
2. Approve and instruct the Mayor of the Board to sign the cooperative Agreement with the City of West Covina for the project. The Agreement provides for the County to perform the preliminary engineering and administer the construction of the roadway improvements with the City to finance its jurisdictional share of the cost, up to a maximum contribution of \$155,000, and the County to finance all remaining costs in excess of the City's contribution. The total cost of the roadway improvements is currently estimated to be \$823,000 with the City's share being \$155,000 and the County's share being \$668,000. The Agreement also provides for the City to perform the preliminary engineering and administer the construction of the landscaping improvements, with the County to finance its jurisdictional share of the construction cost, up to a maximum amount of \$300,000. Included as part of this Agreement as Exhibit A is a maintenance agreement for the landscaping improvements to be constructed by the City that provides for the City to maintain these improvements at its expense in perpetuity.

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

The County proposes to resurface and reconstruct the deteriorated pavement on Azusa Avenue from Amar Road to Temple Avenue which is jurisdictionally shared between the City of West Covina and the County. The roadway improvements will also include the reconstruction of curb, gutter, sidewalk, driveways, and the construction of wheelchair ramps. In addition, the City proposes to install landscaping and a sprinkler system within the existing raised median on Azusa Avenue. Your Board's approval of the enclosed Agreement is necessary for the delegation of responsibilities and the cooperative financing of the project.

Section 1803 of the California Streets and Highways Code provides that the board of supervisors of any county may enter into contracts or agreements with the legislative body of any city for the purposes of more efficient construction or repair of streets and roads within the city. This proposal is also authorized and provided for by the provisions of Section 6500, et seq. of the Government Code.

### **Implementation of Strategic Plan Goals**

This action meets the County Strategic Plan Goal of Service Excellence. By improving the subject roadway and installing median landscaping, residents of the City of West Covina and the unincorporated area who travel on these streets will benefit and their quality of life will be improved.

### **FISCAL IMPACT/FINANCING**

The total project cost for the roadway improvements is currently estimated to be \$823,000. Funding for the roadway improvement work is included in the Fiscal Year 2005-06 Proposition C Local Return Fund Budget. The City will deposit \$155,000 which is its jurisdictional share of the project cost and represents the City's maximum contribution, prior to award of the construction contract.

Funding for the County maximum contribution of \$300,000 toward the construction cost of the landscaping improvements to be constructed by the City is included in the Fiscal Year 2005-06 Road Fund Budget.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

The enclosed Agreement, which has been approved by County Counsel, provides for the County to perform the preliminary engineering and administer the construction for the roadway improvements, with the City of West Covina to finance its jurisdictional share of the project cost, up to a maximum amount of \$155,000. The Agreement also provides for the City to perform the preliminary engineering and administer the construction of the landscaping improvements, with the County to finance its jurisdictional share of the construction cost, up to a maximum amount of \$300,000. Included as part of this Agreement as Exhibit A is a maintenance agreement for the landscaping improvements to be constructed by the City that provides for the City to maintain these improvements at its expense in perpetuity.

### **ENVIRONMENTAL DOCUMENTATION**

The CEQA requires public agency decision makers to document and consider the environmental implications of their actions. Based on the scope of work, the proposed project is categorically exempt pursuant to Section 15301 (c) of the CEQA and Classes 1 (x), 2, 9, 10, 14, and 22 of the County Environmental Guidelines.

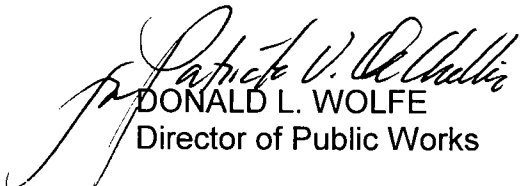
### **IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Azusa Avenue is on the County's Highway Plan, and the proposed improvements are needed and of general County interest.

### **CONCLUSION**

Enclosed are two copies of the Agreement which have been approved by the City of West Covina and approved as to form by County Counsel. Upon approval by your Board, please return the copy marked CITY ORIGINAL to us for processing together with one adopted copy of this letter. The copy marked COUNTY ORIGINAL is for your files.

Respectfully submitted,



DONALD L. WOLFE  
Director of Public Works

HG:yr

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Enc.

cc: Chief Administrative Office, County Counsel

## A G R E E M E N T

THIS AGREEMENT, made and entered into by and between the CITY OF WEST COVINA, a municipal corporation in the County of Los Angeles (hereinafter referred to as CITY), and the COUNTY OF LOS ANGELES, a political subdivision of the State of California (hereinafter referred to as COUNTY):

## W I T N E S S E T H

WHEREAS, Azusa Avenue is on the Highway Element of CITY'S General Plan and on COUNTY'S Highway Plan; and

WHEREAS, CITY and COUNTY propose to resurface and reconstruct the deteriorated pavement on Azusa Avenue from Amar Road to Temple Avenue, including the reconstruction of curb, gutter, sidewalk, driveways, raised medians, and the construction of wheelchair ramps and bus pads, which work is hereinafter referred to as "IMPROVEMENTS"; and

WHEREAS, in conjunction with IMPROVEMENTS, CITY and COUNTY also propose to install landscaping and an irrigation system within the existing raised medians on Azusa Avenue from Amar Road to Temple Avenue, and on Amar Road from Brentwood Drive to Azusa Avenue, which work is hereinafter referred to as "LANDSCAPING"; and

WHEREAS, IMPROVEMENTS and LANDSCAPING together are hereinafter referred to as "PROJECT"; and

WHEREAS, PROJECT is within the geographical boundaries of CITY and COUNTY; and

WHEREAS, PROJECT is of general interest to CITY and COUNTY; and

WHEREAS, COUNTY is willing to perform or cause to perform the preliminary engineering, construction inspection and engineering, materials testing, construction survey, contract administration, and all other work necessary to construct IMPROVEMENTS; and

WHEREAS, CITY is willing to perform or cause to perform the preliminary engineering, construction inspection and engineering, materials testing, construction survey, contract administration, and all other work necessary to construct LANDSCAPING; and

WHEREAS, CITY proposes to perform ongoing maintenance for LANDSCAPING at CITY expense ; and

WHEREAS, a maintenance agreement for LANDSCAPING, which details the terms, conditions, and obligations for maintenance of LANDSCAPING, hereinafter referred to as "MAINTENANCE AGREEMENT", is attached hereto and made part of AGREEMENT as "Exhibit A"; and

WHEREAS, "COST OF IMPROVEMENTS" includes the costs of preliminary engineering, construction contract, contract administration, construction inspection and engineering, materials testing, construction survey, signing, and striping for IMPROVEMENTS as more fully set forth herein; and

WHEREAS, CITY is willing to finance its jurisdictional share of COST OF IMPROVEMENTS, up to a maximum amount of One Hundred Fifty-five Thousand and 00/100 Dollars (\$155,000.00); and

WHEREAS, COST OF IMPROVEMENTS is currently estimated to be Eight Hundred Twenty-three Thousand and 00/100 Dollars (\$823,000.00), with CITY'S share being One Hundred Fifty-five Thousand and 00/100 Dollars (\$155,000.00) and COUNTY'S share being Six Hundred Sixty-eight Thousand and 00/100 Dollars (\$668,000.00); and

WHEREAS, COUNTY is willing to finance its jurisdictional share of the construction contract cost of LANDSCAPING up to a maximum amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00).

NOW, THEREFORE, in consideration of the mutual benefits to be derived by CITY and COUNTY and of the promises herein contained, it is hereby agreed as follows:

(1) DEFINITIONS:

- a. The term "jurisdiction", as referred to in this AGREEMENT, shall be defined as the area within the geographical boundary of each governmental entity mentioned in this AGREEMENT.
- b. The "COST OF IMPROVEMENTS," as referred to in this AGREEMENT, shall consist of the costs of preliminary engineering, construction contract, contract administration, construction inspection and engineering, materials testing, construction survey, utility relocation, traffic detour, final signing and striping, and all other work necessary to construct IMPROVEMENTS in accordance with the approved plans and shall include currently effective percentages added to total salaries, wages, and equipment costs to cover overhead, administration, and depreciation in connection with any or all of the aforementioned items.

- c. The cost of preliminary engineering, as referred to in this AGREEMENT, shall consist of the costs of environmental documentation; design survey; traffic index and geometric investigation; soil testing; preparation of plans, specifications, and cost estimates; right-of-way certification; utility engineering; and all other necessary work prior to the award of the construction contract for IMPROVEMENTS and shall include currently effective percentages added to total salaries, wages, and equipment costs to cover overhead, administration, and depreciation in connection with any and all of the aforementioned items.
- d. The cost of construction contract for IMPROVEMENTS, as referred to in this AGREEMENT, shall consist of the total of payments to the construction contractor(s) for IMPROVEMENTS, and the total of all payments to utility companies or contractor(s) for the relocation of facilities necessary for the construction of IMPROVEMENTS.
- e. The cost of construction contract for LANDSCAPING, as referred to in this AGREEMENT, shall consist of the total of payments to the construction contractor(s) for LANDSCAPING, and the total of all payments to utility companies or contractor(s) for the relocation of facilities necessary for the construction of LANDSCAPING.

(2) CITY AGREES:

- a. To perform or cause to be performed all work necessary to complete LANDSCAPING in accordance with approved plans.
- b. To obtain COUNTY'S approval of plans for LANDSCAPING prior to advertising for construction bids.
- c. To adhere to the terms, conditions and obligations of MAINTENANCE AGREEMENT for LANDSCAPING improvements, attached hereto and made a part of this AGREEMENT as EXHIBIT A.
- d. To finance the cost of LANDSCAPING in excess of COUNTY'S contribution, pursuant to paragraph (3) e., below; the actual amount of which is to be determined by a final accounting of LANDSCAPING costs.
- e. To finance CITY'S jurisdictional share of COST OF IMPROVEMENTS up to a maximum amount of One Hundred Fifty-five Thousand and 00/100 Dollars (\$155,000.00).
- f. To deposit with COUNTY, following the opening of construction bids for IMPROVEMENTS and upon demand by COUNTY, sufficient CITY funds to finance CITY'S jurisdictional share of COST OF IMPROVEMENTS, up to a maximum of One Hundred Fifty-five Thousand and 00/100 Dollars

(\$155,000.00), the actual amount of which is to be determined by a final accounting of IMPROVEMENTS costs. Said demand shall consist of a billing invoice.

- g. To grant to COUNTY any temporary right of way or easement that may be necessary for the construction of IMPROVEMENTS at no cost to COUNTY.
- h. Upon approval of construction plans for IMPROVEMENTS, to issue COUNTY a no-fee permit(s) authorizing COUNTY to construct those portions of IMPROVEMENTS within CITY highway right of way.
- i. To cooperate with COUNTY in conducting negotiations with and, where appropriate, issue notices to public utility organizations and owners of substructure and overhead facilities regarding the relocation, removal, operation, and maintenance of all surface and underground utilities and facilities, structures, and transportation services, which interfere with the proposed construction of IMPROVEMENTS. Where utilities have been installed in CITY streets or on CITY property, CITY will provide the necessary right of way for the relocation of those utilities and facilities that interfere with the construction of IMPROVEMENTS. CITY will take all necessary steps to grant, transfer, or assign all prior rights over utility companies and owners of substructure and overhead facilities when necessary to construct, complete, and maintain IMPROVEMENTS or to appoint COUNTY as its attorney-in-fact to exercise such prior rights.
- j. To appoint COUNTY as CITY'S attorney-in-fact for the purpose of representing CITY in all negotiations pertaining to the advertisement of IMPROVEMENTS for construction bids, award, and administration of the construction contract and in all things necessary and proper to complete IMPROVEMENTS.
- k. Upon completion of IMPROVEMENTS, to maintain in good condition and at CITY'S sole expense all improvements constructed as part of IMPROVEMENTS within CITY'S jurisdiction.

(3) COUNTY AGREES:

- a. To perform or cause to be performed the preliminary engineering, construction inspection and engineering, materials testing, construction survey and contract administration for IMPROVEMENTS.
- b. To obtain CITY'S approval of plans for IMPROVEMENTS prior to advertising for construction bids.

- c. To finance the COST OF IMPROVEMENTS in excess of CITY'S contribution, pursuant to paragraph (2) e., above; the actual amount of which is to be determined by a final accounting of IMPROVEMENT costs.
- d. To adhere to the terms, conditions and obligations of MAINTENANCE AGREEMENT for LANDSCAPING improvements, attached hereto and made a part of this AGREEMENT as EXHIBIT A.
- e. To finance COUNTY'S jurisdictional share of the cost of construction contract of LANDSCAPING, up to a maximum amount of Three Hundred Thousand and 00/100 Dollars (\$300,000.00), the actual amount of which is to be determined by a final accounting of LANDSCAPING costs.
- f. To deposit with CITY, following the opening of construction bids for LANDSCAPING and upon demand by CITY, sufficient COUNTY funds to finance COUNTY'S jurisdictional share of the cost of construction contract of LANDSCAPING, up to a maximum of Three Hundred Thousand and 00/100 Dollars (\$300,000.00). Said demand will consist of a billing invoice.
- g. To grant to CITY any temporary right of way or easement that may be necessary for the construction of LANDSCAPING at no cost to CITY.
- h. Upon approval of construction plans for LANDSCAPING, to issue CITY a no-fee permit(s) authorizing CITY to construct those portions of LANDSCAPING within COUNTY highway right of way.
- i. To cooperate with CITY in conducting negotiations with and, where appropriate, issue notices to public utility organizations and owners of substructure and overhead facilities regarding the relocation, removal, operation, and maintenance of all surface and underground utilities and facilities, structures, and transportation services, which interfere with the proposed construction of LANDSCAPING. Where utilities have been installed in COUNTY streets or on COUNTY property, COUNTY will provide the necessary right of way for the relocation of those utilities and facilities that interfere with the construction of LANDSCAPING. COUNTY will take all necessary steps to grant, transfer, or assign all prior rights over utility companies and owners of substructure and overhead facilities when necessary to construct, complete, and maintain LANDSCAPING or to appoint CITY as its attorney-in-fact to exercise such prior rights.
- j. To appoint CITY as COUNTY'S attorney-in-fact for the purpose of representing COUNTY in all negotiations pertaining to the advertisement of LANDSCAPING for construction bids, award, and administration of the construction contract and in all things necessary and proper to complete LANDSCAPING.



- k. Upon completion of IMPROVEMENTS, to maintain in good condition and at COUNTY expense all improvements constructed as part of IMPROVEMENTS within COUNTY'S jurisdiction.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- a. That if CITY'S jurisdictional share of COST OF IMPROVEMENTS, based upon a final accounting, is less than CITY'S deposit as set forth in paragraph (2) f., COUNTY shall refund the difference to CITY. If CITY disputes the amount to be refunded, CITY may follow the procedure set forth in paragraph (4) f., below.
- b. That if COUNTY'S share of cost of construction contract for LANDSCAPING, based upon final accounting, is less than COUNTY'S deposit, set forth in paragraph (3) f., CITY shall refund the difference to the COUNTY. If COUNTY disputes the amount to be refunded, COUNTY may follow the procedure set forth in paragraph (4) g., below.
- c. COUNTY, at any time, may, at its sole discretion, designate an alternative payment mailing address and an alternative schedule for payment of CITY funds if applicable. CITY shall be notified of such changes by invoice.
- d. During construction of IMPROVEMENTS, COUNTY shall furnish an inspector or other representative to perform the functions of an inspector. CITY may also furnish, at no cost to COUNTY, an inspector or other representative to inspect construction of IMPROVEMENTS. Said inspectors shall cooperate and consult with each other, but the orders of COUNTY inspector to the contractors or any other person in charge of construction shall prevail and be final.
- e. During construction of LANDSCAPING, CITY shall furnish an inspector or other representative to perform the functions of an inspector. COUNTY may also furnish, at no cost to CITY, an inspector or other representative to inspect construction of LANDSCAPING. Said inspectors shall cooperate and consult with each other, but the orders of CITY inspector to the contractors or any other person in charge of construction shall prevail and be final.
- f. CITY shall review the final accounting invoice for COST OF IMPROVEMENTS prepared by COUNTY and report in writing any discrepancies to COUNTY Department of Public Works within sixty (60) calendar days after the date of said invoice. Undisputed charges shall be deducted from CITY'S deposit. Public Works shall review all disputed charges and submit a written justification to CITY detailing the basis for those charges within sixty (60) calendar days of receipt of CITY'S written

report. CITY must submit justification to Public Works for nonpayment within sixty (60) calendar days after the date of COUNTY'S written justification. If not, previously disputed charges shall then be deducted from CITY'S deposit, and any remaining deposit shall be refunded to the CITY within sixty (60) calendar days.

- g. COUNTY shall review the final accounting invoice for cost of LANDSCAPING prepared by CITY and report in writing any discrepancies to CITY within sixty (60) calendar days after the date of said invoice. Undisputed charges shall be deducted from COUNTY'S deposit. CITY shall review all disputed charges and submit a written justification to COUNTY detailing the basis for those charges within sixty (60) calendar days of receipt of COUNTY'S written report. COUNTY must submit justification to CITY for nonpayment within sixty (60) calendar days after the date of CITY'S written justification. If not, previously disputed charges shall then be deducted from COUNTY'S deposit, and any remaining deposit shall be refunded to the COUNTY within sixty (60) calendar days.
- h. This AGREEMENT may be amended or modified only by mutual written consent of COUNTY and CITY. Amendments and modifications of a nonmaterial nature may be made by the mutual written consent of the parties' Directors of Public Works or their delegates.
- i. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY:

Mr. Shannon Yauchzee  
Director of Public Works/City Engineer  
City of West Covina  
P.O. Box 1440  
West Covina, CA 91793-1440

COUNTY:

Mr. Donald L. Wolfe  
Director of Public Works  
County of Los Angeles  
Department of Public Works  
P.O. Box 1460  
Alhambra, CA 91802-1460

- j. Neither COUNTY nor any officer or employee of COUNTY shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of CITY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of CITY under this AGREEMENT. It is also understood and agreed that,

pursuant to Government Code, Section 895.4, CITY shall fully indemnify, defend, and hold COUNTY harmless from any liability imposed for injury (as defined by Government Code, Section 810.8) occurring by reason of any acts or omissions on the part of CITY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of CITY under this AGREEMENT.

- k. Neither CITY nor any officer or employee of CITY shall be responsible for any damage or liability occurring by reason of any acts or omissions on the part of COUNTY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of COUNTY under this AGREEMENT. It is also understood and agreed that, pursuant to Government Code, Section 895.4, COUNTY shall fully indemnify, defend, and hold CITY harmless from any liability imposed for injury (as defined by Government Code, Section 810.8) occurring by reason of any acts or omissions on the part of COUNTY under or in connection with any work, authority, or jurisdiction delegated to or determined to be the responsibility of COUNTY under this AGREEMENT.
- l. In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement (as defined in Section 895 of said Code), each of the parties hereto, pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, will assume the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by any act or omission occurring in the performance of this AGREEMENT to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, each of the parties indemnifies and holds harmless the other party for any liability, cost, or expense that may be imposed upon such other party solely by virtue of said Section 895.2. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.
- m. It is understood and agreed that the provisions of Assumption of Liability Agreement No. 32391 between CITY and COUNTY, adopted by the Board of Supervisors on December 27, 1977, and currently in effect, are inapplicable to this AGREEMENT.

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IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized, by the CITY OF WEST COVINA on 10-18-05, 2005, and by the COUNTY OF LOS ANGELES on \_\_\_\_\_, 2005.

COUNTY OF LOS ANGELES

By \_\_\_\_\_  
Chair, Board of Supervisors

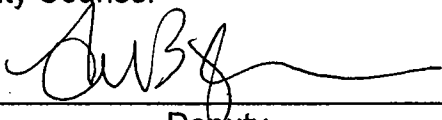
ATTEST:

VIOLET VARONA-LUKENS  
Executive Officer of the  
Board of Supervisors of  
the County of Los Angeles

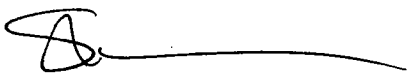
By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.  
County Counsel

By   
Deputy

CITY OF WEST COVINA

By   
Mayor

ATTEST:

By   
City Clerk

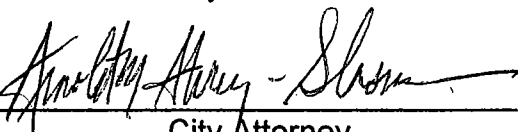
By   
City Attorney

EXHIBIT A  
MAINTENANCE AGREEMENT

THIS MAINTENANCE AGREEMENT, made and entered into by and between the CITY OF WEST COVINA, a municipal corporation in the County of Los Angeles (hereinafter referred to as CITY), and the COUNTY OF LOS ANGELES, a political subdivision of the State of California, (hereinafter referred to as COUNTY):

WITNESSETH

WHEREAS, this MAINTENANCE AGREEMENT refers to CITY'S and COUNTY'S cooperative project to install landscaping and an irrigation system within the existing raised medians on Azusa Avenue from Amar Road to Temple Avenue, and on Amar Road from Brentwood Drive to Azusa Avenue, which work is hereinafter referred to as "LANDSCAPING";

WHEREAS, CITY desires to provide "MAINTENANCE" in perpetuity for LANDSCAPING at CITY expense, as more fully set forth herein; and

NOW, THEREFORE, in consideration of the mutual benefits to be derived by CITY and COUNTY and of the promises herein contained, it is hereby agreed as follows:

(1) DEFINITIONS:

- a. The term "MAINTENANCE," as referred to in this MAINTENANCE AGREEMENT, shall be:
  1. Provide and maintain all water and irrigation systems including utility costs for LANDSCAPING. Irrigation system will be maintained and operated to avoid slope damage, excessive water flooding, or spraying onto the pavement.
  2. Replace unhealthy or dead plantings as they are observed.
  3. Keep entire LANDSCAPING free of litter, debris and deleterious material as practical.
  4. Control rodents and pests.
  5. Control weed growth before weeds exceed 12 inches in length. Any weed control performed by chemical weed sprays (pesticides) shall comply with all laws, rules, and regulations established by the California Department of Food and Agriculture.
  6. Maintain planting in such condition that they do not interfere with the free flow of traffic, including maintenance of adequate sight distances and visibility of signs, signals, and pedestrians.
  7. Prune shrubs and tree plantings necessary to control extraneous growth. Trees shall be pruned using the highest professionally

accepted standards in a manner that will encourage good development while preserving their health, structure, and natural appearance.

8. Adequately water and fertilize all plantings to maintain a healthy growth.

(2) CITY AGREES:

- a. To perform or cause to perform MAINTENANCE at CITY expense in the TERM OF MAINTENANCE AGREEMENT set forth in Section (6) of this MAINTENANCE AGREEMENT.
- b. CITY may contract with others for MAINTENANCE. CITY shall be solely responsible for all activities associated with MAINTENANCE, including third parties contracted by CITY. It is understood that the terms and conditions of this MAINTENANCE AGREEMENT, or any interest herein, or any portion hereof, shall not be assigned or delegated to third parties.
- c. That if during MAINTENANCE, changes to LANDSCAPING affecting public safety or public convenience, all design and specification changes, and all major changes including removal, severe pruning (topping), or addition of either planting or irrigation shall be approved by COUNTY in advance of performing work. Unless otherwise directed by COUNTY'S representative, changes authorized will require an encroachment permit. Failure to notify COUNTY of such changes may result in the immediate removal of LANDSCAPING or portions of LANDSCAPING at CITY'S expense.

(3) COUNTY AGREES:

- a. To maintain all highway signs, paved drainage structures, and other nonlandscape highway appurtenances with exception of the medians, from back of the curb to back of the curb, included in LANDSCAPING limits within COUNTY'S jurisdiction.

(4) IT IS MUTUALLY UNDERSTOOD AND AGREED UPON:

- a. Damage to LANDSCAPING resulting from accident, storm, neglect or other causes beyond the control of COUNTY are the responsibility of the CITY.
- b. That if for any reason MAINTENANCE by CITY does not meet minimum standards specified herein, COUNTY shall provide CITY with a written notice of CITY'S failure to perform MAINTENANCE at a reasonable level. CITY shall respond within thirty (30) days of receipt of said notice. Said response shall describe the action to be taken by CITY to bring the

affected areas back into compliance. In the event CITY does not provide such response and take any action to bring the affected areas back into compliance within 90 days of the original notice, CITY will reimburse COUNTY for all costs incurred by COUNTY forces for all future MAINTENANCE and/or removal of LANDSCAPING and paving over or otherwise restore the area to a condition satisfactory to COUNTY. Said demand will consist of a billing invoice prepared by COUNTY.

- c. Various future COUNTY projects may be implemented which will require removal and/or modification to all or a portion of LANDSCAPING. Any replacement landscaping including irrigation facilities will be COUNTY'S responsibility. COUNTY will obtain CITY approval of plans prior to any removal and/or modification to all or a portion of LANDSCAPING. Upon completion of work, which affects the limits of maintenance, an amendment to this MAINTENANCE AGREEMENT will be prepared and delivered to CITY for review. The amended MAINTENANCE AGREEMENT will supersede the original limits shown on the original permit plans.

(5) LEGAL RELATIONS AND RESPONSIBILITIES:

- a. Nothing in this provision of this MAINTENANCE AGREEMENT is intended to create duties or obligations to or rights in third parties not parties to this MAINTENANCE AGREEMENT, or affects the legal liability of either party by imposing any standard of care respecting the design, construction, and maintenance of COUNTY highway right of way different from the standard of care imposed by law.
- b. It is understood and agreed that neither COUNTY, nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work performed by CITY under this MAINTENANCE AGREEMENT. It is further understood and agreed that, pursuant to Government Code Section 895.4, CITY shall defend, indemnify and hold harmless the COUNTY, and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought for or on account of injuries (as defined in Government Code Section 810.8) to or death of any person or damage to property resulting from anything done or omitted to be done by CITY under or in connection with any work performed by CITY under this MAINTENANCE AGREEMENT. CITY waives any and all rights to any type of express, implied and comparative indemnity against COUNTY, its officers and employees arising from any work performed by CITY under this MAINTENANCE AGREEMENT.
- c. It is understood and agreed that neither CITY, nor any officer or employee thereof is responsible for any damage or liability occurring by reason of

anything done or omitted to be done by COUNTY under or in connection with any work performed by COUNTY under this MAINTENANCE AGREEMENT. It is further understood and agreed that, pursuant to Government Code Section 895.4, COUNTY shall defend, indemnify and hold harmless the CITY, and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought for or on account of injuries (as defined in Government Code Section 810.8) to or death of any person or damage to property resulting from anything done or omitted to be done by COUNTY under or in connection with any work performed by COUNTY under this MAINTENANCE AGREEMENT. COUNTY waives any and all rights to any type of express, implied and comparative indemnity against CITY, its officers and employees arising from any work performed by COUNTY under this MAINTENANCE AGREEMENT.

- d. Upon termination of this MAINTENANCE AGREEMENT, ownership and title to all materials, equipment and appurtenances installed inside COUNTY'S right of way will automatically be vested in COUNTY. Those materials and equipment installed outside of the COUNTY'S right of way will automatically and immediately be vested in CITY, and no further MAINTENANCE AGREEMENT will be necessary to transfer ownership.

(6) TERM OF MAINTENANCE AGREEMENT

- a. This MAINTENANCE AGREEMENT shall become effective upon execution by both parties and shall remain in full force for five years which term shall automatically renew for successive five year periods unless it is mutually agreed by both parties to terminate this MAINTENANCE AGREEMENT. Such request for termination must be given to the other party not sooner than one year prior, but not later than six months prior to the expiration of any such five year period.

P:\pdpub\PB&C\Agreements\Coop\_Agmt\Azusa Av-Amar Rd to Temple Ave w-Maint (WCV) Agreement.doc